

TO BE CIRCULATED IN ENGLISH AND SPANISH

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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KELVIN MEJIA MENDEZ and ANDRES PEREZ,
individually and on behalf of others similarly situated,

Index No. 18-cv-9910 (JMF)

Plaintiffs,

COURT-AUTHORIZED
NOTICE

-against-

SWEET SAM'S BAKING COMPANY LLC (D/B/A
SWEET SAM'S BAKING COMPANY), DAVID
GROGAN , and ESPERANZA LOPEZ,

Defendants.

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If you have been employed as a production employee at Sweet Sam's Baking Company
under the supervision of Esperanza Lopez in the work group "Production 2" between April

12, 2016 and the present, please read this notice.

A collective action lawsuit may affect your legal rights.

The purpose of this Notice is to advise you of the lawsuit that has been filed against
SWEET SAM'S BAKING COMPANY LLC (D/B/A SWEET SAM'S BAKING COMPANY),
DAVID GROGAN , and ESPERANZA LOPEZ (the "Defendants"), and to advise you of your
legal rights in connection with that suit.

~~The lawsuit claims~~ The Named Plaintiffs, Kevin Mejia Mendez and Andres Perez
("Named Plaintiffs") allege that the Defendants failed to pay production-employees who worked
under the supervision of Esperanza Lopez in the work group "Production 2" ("Production Group
2 Employees") proper minimum wage and overtime pay, as required by the federal Fair Labor
Standards Act ("FLSA") and New York State Labor Law ("NYLL"). Specifically, the Named
Plaintiffs allege that Defendants paid Production Group 2 Employees for all time worked while
clocked in, but that Ms. Lopez demanded employees in Production Group 2 work additional 'off-
the-clock' time either before they clocked in or after they clocked out for which they were not
compensated. The lawsuit seeks to recover money owed for this purported 'off-the-clock' time

in back wages and additional damages known as “liquidated damages,” along with interest, attorneys’ fees, and costs.

Defendants deny any wrongdoing and maintain that all employees, including Production Group 2 Employees, were paid appropriately for all hours worked. Defendants also maintain that their detailed time and payroll records properly reflect all work performed and payments made the Production Group 2 Employees.

The Court has authorized the parties to send out this notice of the lawsuit. The Court expressed no opinion regarding the merits of the claims or their chances of success. This Notice should not be taken as an indication that you should or should not join the lawsuit.

I. WHAT THE LAWSUIT IS ABOUT

This lawsuit is about whether the Defendants properly paid ~~production employees in the group Production 2~~ Production Group 2 Employees in accordance with federal and state labor laws. In particular, this notice relates to claims that the Defendants violated federal law by failing to pay employees the legal minimum wage for all hours worked, and premium overtime pay – at a rate of 1.5 times the minimum wage rate – for all hours worked in excess of 40 per week. The lawsuit alleges that the Defendants failed to record all the hours worked by ~~production employees in the group Production 2~~ Production Group 2 Employees, and failed to compensate such employees for the hours they worked ~~but were not recorded~~ ‘off-the-clock’. ~~The lawsuit claims that Plaintiffs are owed minimum and overtime wages for these hours which were allegedly worked but not recorded.~~

II. COMPOSITION OF THE COLLECTIVE ACTION

The ~~Named~~ Plaintiffs seek to sue on behalf of themselves, and on behalf of other ~~employees~~ Production Group 2 Employees who may wish to join the lawsuit and who are similarly situated.

III. YOUR OPTIONS REGARDING THIS LAWSUIT

You may elect to join this lawsuit, bring your own separate lawsuit, or not do anything. Enclosed is a form called “Plaintiff Consent Form.” If you choose to join this lawsuit, it is extremely important that you read, sign, and promptly return the Plaintiff Consent Form. If you intend to join the lawsuit, you must complete the enclosed consent to become a plaintiff form by [insert 60 days from the date of this notice] and send it to the following address:

Michael Faillace
Michael Faillace & Associates, P.C.
60 East 42nd Street
Suite 4510
New York, New York 10165
Telephone: (212) 317-1200

Fax: (212) 317-1621

Electronic Mail: michael@faillacelaw.com

Alternatively, you can do nothing if you do not wish to bring claims against Defendants or you are allowed to hire your own lawyer to represent you at your own expense.

IV. EFFECT OF JOINING THIS LAWSUIT

If you choose to join the lawsuit, you will be bound by any ruling, settlement, or judgment, whether favorable or unfavorable. You will also share in any proceeds from a settlement or favorable judgment. While this lawsuit is pending, you may be asked to provide discovery and relevant information regarding the work you performed at Sweet Sam's Baking Company. You may also be required to provide information or testify at trial if you opt into this conditional class action. You may also be required to appear for a deposition. In a deposition, you would be required to provide sworn out-of-court testimony concerning your employment at Sweet Sam's Baking Company.

By joining this lawsuit, you designate the Named Plaintiffs as your representatives, and to the fullest extent possible, you designate the Named Plaintiffs and their counsel to make decisions on your behalf concerning the case, the method and manner of conducting the case, and all other matters pertaining to this lawsuit.

V. EFFECT OF NOT JOINING THIS LAWSUIT

If you choose not to join this lawsuit, you do not need to do anything. If you do not join this lawsuit, you will not be a part of the case in any way and will not need to provide testimony at trial or during a deposition and you will not be required to provide any discovery related to the work you performed at Sweet Sam's Baking Company. Additionally, if you choose to not join this lawsuit, -you and will NOT-not be eligible to receive any benefits in the event that a settlement or judgment is obtained. Additionally, the limitations period on your claims the purported claims asserted by the Named Plaintiffs in this lawsuit will continue to run.

VI. NO RETALIATION PERMITTED

It is a violation of law for the Defendants or any other employer to fire, discipline, or in any manner discriminate against you for joining this lawsuit. Federal and state law prohibits an employer from discriminating or retaliating against you for choosing to join this lawsuit or otherwise exercising your existing rights under the FLSA.

VII. IMMIGRATION STATUS

Your immigration status does not affect your entitlement to recover back wages or to participate in this lawsuit.

VIII. ARBITRATION AGREEMENTS

You may join this lawsuit [if you are a Production Group 2 Employee](#), even if you signed an agreement with Sweet Sam's Baking Company between October 26, 2018 and now, agreeing that you would assert any claim you may have based on your employment at Sweet Sam's Baking Company, including for unpaid wages, in an arbitration. You may join this lawsuit even if that agreement stated that you would not join a collective action lawsuit for unpaid wages.

Dated: [Insert Month and Day], 2019

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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KELVIN MEJIA MENDEZ and ANDRES PEREZ,
individually and on behalf of others similarly situated,

Plaintiffs,

-against-

SWEET SAM'S BAKING COMPANY LLC (D/B/A
SWEET SAM'S BAKING COMPANY), DAVID
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Defendants.

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CONSENT TO BE PARTY
PLAINTIFF

I [am a Production Group 2 Employee and](#) consent to be a party plaintiff in a lawsuit against Sweet Sam's Baking Company (d/b/a Sweet Sam's Baking Company), David Grogan, and Esperanza Lopez and/or related entities and individuals in order to seek redress for violations of the Fair Labor Standards Act, pursuant to 29 U.S.C. § 216(b).

By signing and returning this consent form, I designate Michael Faillace & Associates, P.C. to represent me and make decisions on my behalf concerning this litigation and any settlement. I agree to be bound by any adjudication of this action by a court, whether it is favorable or unfavorable.

Full Legal Name (Print)

Signature

Date

Address

City, State, and Zip Code

Telephone Number

Dates of Employment at Sweet Sam's Baking Company

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SOUTHERN DISTRICT OF NEW YORK**

KELVIN MEJIA MENDEZ and ANDRES PEREZ,
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Plaintiffs,

against

SWEET SAM'S BAKING COMPANY LLC (D/B/A-
SWEET SAM'S BAKING COMPANY), DAVID-
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Defendants.

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**PROPOSED TEXT MESSAGE
NOTIFICATION**

If you have worked as a production employee at Sweet Sam's Baking Company, in the group
Production 2, anytime in the past three years, you might be entitled to join a lawsuit claiming
back pay for minimum wage and overtime compensation. For additional information about the
case, including how to join, please call the plaintiffs' attorneys at 212-317-1200.

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